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HUMAN RIGHTS COMMITTEE
Sixty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Lithuania

1. The Committee considered the initial report of Lithuania (CCPR/C/81/Add.10) at its 1634th and 1635th meetings, on 30 October 1997, and subsequently adopted 1/ the following comments:

A. Introduction

2. The Committee welcomes the initial report of Lithuania and subsequent amendments, but regrets its late submission. The Committee also regrets that while providing detailed information on prevailing legislation in the field of human rights in Lithuania, the report does not contain sufficient specific information on the implementation of the Covenant in practice. However, the Committee expresses its appreciation for the answers provided by the delegation to questions raised in the course of the discussion, which demonstrated the State party's willingness to engage in an open and constructive dialogue with the Committee and enabled it to obtain a clearer picture of the actual human rights situation in the country.

1/ At the 1643rd meeting, held on 6 November 1997.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee notes that Lithuania is still in the process of transition to democracy after many years of authoritarian rule and that there remain outdated legislation and a number of institutions which may be detrimental to the implementation of human rights and which will take time to reform.

C. Positive aspects

4. The Committee welcomes Lithuania's accession to the Covenant and other human rights instruments soon after the restoration of its independence on 11 March 1990.

5. The Committee expresses its satisfaction that the new Criminal Code currently being drafted will contain no death penalty provisions, and welcomes Lithuania's intention to accede to the Second Optional Protocol in the near future. The fact that the Clemency Commission, headed by the President of Lithuania, has in practice suspended executions of persons sentenced to death is also welcomed by the Committee.

6. The Committee notes with great interest that Lithuania has undertaken major reforms of the legal system, including repeal of preventive detention laws, abolition of the Press Control Board, subjecting administrative detention to court review, and the enactment of new laws on privacy, on the media and broadcasting, on freedom of information, on non-refoulement, on child welfare and on the integration of disabled people. The Committee welcomes new legislation requiring judicial authorization for pre-trial detention. The Committee also welcomes the establishment of institutions to deal with human rights issues, such as the Committee on Human and Civil Rights and Ethnic Minorities Affairs, the Department of International and Human Rights as well as the Seimas Ombudsman's Office, which investigates citizens' complaints concerning abuse of official position by national and local government officials. In regard to the foregoing:

> The Committee requests that specific information about the operation of these new laws and institutions be provided in the next periodic report of Lithuania.

7. The Committee welcomes the information provided by the delegation on programmes for education in human rights and on action taken to disseminate information about the Covenant to the people of Lithuania.

8. The Committee welcomes the recognition by Lithuania of the competence of the Committee to receive and consider communications under the Optional Protocol to the Covenant. In this regard:

> A specific mechanism should be established to ensure that the Views expressed by the Committee on individual communications under the Optional Protocol to the Covenant are systematically implemented.

D. Subjects of concern and the Committee's recommendations

9. The Committee is concerned about the unclear legal status of the Covenant within the domestic legal order and the apparent lack of opportunity for individuals to challenge the application of laws which affect their rights and freedoms under the Covenant in the courts. Therefore:

The State party should ensure that Covenant rights are not restricted by legislation inconsistent with it and take all necessary steps to allow individuals to challenge the application of laws which affect their rights and freedoms under the Covenant in the courts.

10. While welcoming the progress made in ensuring the equal enjoyment of rights by women, which includes the initiation of the Action Plan 1998-2000 for the Implementation of the Programme for Advancement of Women, the Committee is concerned that women still suffer from discrimination, especially in the area of employment and in access to leadership positions in politics and society, and that the proposed law on gender equality has not yet been enacted. Therefore:

Concrete measures should be taken to eliminate all discrimination against women and to enhance and reinforce the position of women in society by providing legal remedies for discrimination in all areas, including employment and commercial advertising. Mechanisms should be established to monitor non-discrimination laws, to receive and investigate complaints from victims, and to award compensation where appropriate.

11. While noting the measures adopted recently to provide assistance to women victims of violence and forced prostitution and to prosecute persons involved in procuring, the Committee is extremely concerned about the extent of these problems. It is also concerned about the problems of child abuse, including sexual abuse. Therefore:

Additional measures should be taken to prevent, investigate and prosecute cases of violence against women, including domestic violence, and abuse of children, including sexual abuse, and to promote the right of women and children to personal security. Programmes for the rehabilitation of traumatized children and adequate legal and social procedures and mechanisms to deal with complaints of both physical and mental ill-treatment need to be developed.

12. The Committee is concerned at reported cases of harassment and use of excessive force by members of the army against conscripts and of police brutality against detainees. Therefore:

An independent investigation mechanism should be established to inquire into all cases of alleged brutality committed by members of the police or the army. Intensive training and education programmes in the field of human rights for members of the army and law enforcement officials are also recommended to ensure their observance of the Covenant, especially its articles 7, 9 and 10.

13. The Committee is concerned that the power of the police to detain people for up to five hours could be used for the purpose of harassment or intimidation, in violation of the right under article 9 of the Covenant to personal liberty and security. Therefore:

The provisions on police detention should be reviewed to bring them into conformity with the Covenant.

14. While recognizing the efforts undertaken by the State party to improve prison conditions, the Committee is concerned that most prisons, especially places of pre-trial confinement, are overcrowded. Therefore:

The State party should take the necessary measures to ensure that the conditions of detention of persons deprived of their liberty comply with article 10 of the Covenant, taking into account the Committee's General Comment No. 21 (44) and the United Nations Standard Minimum Rules for the Treatment of Prisoners.

15. The Committee expresses concern that the right of foreign nationals to freedom of movement may be restricted on grounds not compatible with the Covenant and that restrictions on the right to leave Lithuania are imposed on persons who, because of their employment, may have information relating to State secrets. Furthermore, the Committee expresses its concern that restrictions are imposed on the freedom of movement of asylum-seekers with temporary refugee status and that failure to observe those restrictions may result in the rejection of the claim for asylum. Moreover, the Committee is concerned that the law appears to protect against expulsion or deportation in cases where persons may be exposed to "persecution" but not where there is a threat to their right to life or of inhuman and degrading treatment or punishment. Therefore:

Provisions which restrict freedom of movement in a manner incompatible with article 12 of the Covenant should be repealed. Provision should be made to ensure that persons are not deported to States where they may face a real risk of violation of their rights under articles 6 and 7 of the Covenant.

16. With regard to article 14 of the Covenant, the Committee is concerned that, although there are new provisions aimed at ensuring the independence of the judiciary, District Court judges must still undergo a review by the executive after five years of service in order to secure permanent appointment. In this regard, the Committee recommends that:

Any such review process should be concerned only with judicial competence and should be carried out only by an independent professional body.

17. The Committee is particularly concerned about the extensive powers exercised by immigration officers in respect of illegal immigrants in border areas. Therefore:

The powers of entry and search exercised by immigration officers should be clearly defined and judicially controlled in order to ensure compliance with article 17 and other provisions of the Covenant.

18. The Committee is concerned that registration requirements for religious organizations, as well as distinctions made between different religious groups in this connection, could result in discrimination on religious grounds in violation of the right to freedom from discrimination on the ground of religion. The Committee recommends that:

> There should be no discrimination in law or in practice in the treatment of different religions in violation of articles 18 and 26 of the Covenant.

19. The Committee expresses its concern over the conditions for alternative service available to persons who have a conscientious objection to military service, in particular the grounds for establishing the right to perform alternative service and its length. Therefore:

> The Committee recommends the State party clarify the grounds and eligibility for performing, without discrimination, alternative service on grounds of conscience or religious belief to ensure that the right to freedom of conscience and religion is respected.

20. The Committee is concerned that associations or organizations must comply with registration requirements in order to operate in Lithuania, and that there are overly broad prohibitions on their activities. Therefore:

> The Committee recommends that limitations on the operation of associations and organizations not exceed those permitted under article 22 of the Covenant.

21. The Committee notes that certain rights provided for in the Constitution of Lithuania are limited to citizens, although the delegation stated that, in practice, these rights are enjoyed by all persons. In this regard:

> The Committee recommends that relevant legislation be reviewed in order to ensure that there is no arbitrary discrimination against aliens, which is incompatible with the provisions of articles 2 (1) and 26 of the Covenant.

22. The Committee draws the attention of the Government of Lithuania to the provisions of the guidelines regarding the form and contents of periodic reports from States parties and requests that its next periodic report, due on 7 November 2001, contain material which responds to all the present concluding observations, and especially on the implementation of the provisions of the Covenant. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Lithuania.